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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,087	03/12/2004	Christopher Alan Arms	4041A-000019	8673
27572	7590	10/31/2006	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			DICUS, TAMRA	
			ART UNIT	PAPER NUMBER
			1774	

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/800,087

Applicant(s)

ARMS ET AL.

Examiner

Tamra L. Dicus

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-14,20,21 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-14,20,21 and 23-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

The 112 and 102b over '427 Iwase rejections are withdrawn due to Applicant's arguments. '429 Iwase is adjusted slightly to meet the claims as set forth below.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 8-9, 11, and 13-14 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,247,429 to Iwase et al.

Iwase teaches a display board panel with a transparent substrate film of polycarbonate (2:10-50), an opaque black layer of printed dot toners (3:30-45) on the base film in dispersing dot patterns (see 21, FIGS. 3 and 4 and associated text of spaced and discontinuous fashion). Iwase teaches silver dot layer (21, FIG. 3 and associated text, underlying and first layers) and 31, FIG. 3 and associated text, (white layer overlaid on dots 21 and on the substrate 1, outer and second layers) having thickness requirements shown in FIGS. 3 and 5. See also 2:34. That the outer layer is printed is not expressly stated, however, being printed is a process-derived limitation. The white layer 31 is partially laid on the dots and the surface of substrate 1 as shown and taught by Iwase, and thus meets the structural limitations. Product-by-process claims are not limited to the manipulations of the recited steps, only the structure implied by the steps. Patentability of an article depends on the article itself and not the method used to produce it (see MPEP 2113). Furthermore, the invention defined by a product-by-process invention is a product

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NOT a process. *In re Bridgeford*, 357 F. 2d 679. It is the patentability of the product claimed and NOT of the recited process steps which must be established. *In re Brown*, 459 F. 2d 531.

Both Applicant's and prior art reference's product are the same. Claims 8-9, 11, 13-14, 20-21, and 24 are met.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 20-24, and 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,247,429 to Iwase et al.

Iwase essentially teaches the claimed invention, but does not explicitly disclose a profile, slope, or gradual progression as claimed per claims 10, 22-23, and 25-26.

Iwase teaches the density changes (2:30-35) when using the white and black color dots (embraces slope and gradual progression) being backlit (Abstract).

It would have been obvious to one having ordinary skill in the art to have modified the viewed component of Iwase to have dots change slope, profile, or gradual progression as recited because Iwase teaches the density changes when using the white and black color dots (embraces slope and gradual progression) being backlit (2:30-35, Abstract). Further, Iwase teaches the number of rows and interval between adjacent dots becomes small and the area of the dot is reduced (slope and profile) effect the density and thus is an optimal feature, since it has

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been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272.

Claims 8-14, 20-21, 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,210,776 to Hill in view of US 6,663,252 to Fong et al.

Hill teaches a viewed component (backlit display panels, 1:10-15) comprising a planar sheet (14, substrate, FIG. 9C), an underlying layer of ink dots printed on a surface of the planar sheet (11, FIG. 9C, 4:19-21), the pattern of 11 is spaced and discontinuous and thus meets the “dispersing dot pattern” and an outer layer of ink dots (13, FIG. 9C) is printed on the surface of the planar sheet, where a portion of the outer layer 13 overlays the underlying layer 11 according to FIG. 9C and associated text. An intermediate layer is interposed (12, FIG. 9C) as per instant claim 12. The pattern of dots or lines or plurality of discrete elements (embraces a cylindrical shape per instant claim 10) is provided at 4:20-21. The print pattern is also printed by Raster Image Processing (RIP) using dots varying in size and color separations and screen printing processes using Through Combination printing (1:30-40, 9:30-47, 11:39-45, 13:50-60). Instant claims 8, 11-12, 14, 20-21, 24

Hill does not explicitly state the display panel is a vehicle instrument cluster.

Fong teaches backlit display panels for use in automotive display panels (1:1-30, 2: 20-55).

It would have been obvious to one having ordinary skill in the art to have modified the panel of Hill to be used as a vehicle instrument cluster because Fong teaches display panels are used for vehicles in the dashboards making them affordable (Fong, 1:1-30, 2: 20-55).

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The graduation of dots profile as per claims 9-10, 20, 23, and 25-30 are inherent as the same screen printing process, ink material and shapes are provided. Additionally, Applicant explains that when during the screen printing process or other various known manufacturing techniques, a downward force occurs (see [0013, 0015-0016]).

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that the gradual dispersing profile dots are formed by screen printing, pointing to [0013-0016] to the screen printing application and downward force and argues that “the downward force naturally occurs during the silk screening process” on page 8, line 13. Thus, Hill is used to show screen printing of all ink layers as claimed. Iwase is still used to teach structurally the dot pattern and requirements as claimed and set forth above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is 571-272-1519. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Tamra L. Dicus  
Examiner  
Art Unit 1774

October 26, 2006



RENA DYE  
SUPERVISORY PATENT EXAMINER

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10/27/06